

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, an Illinois
Corporation,

Plaintiff,

vs.

JEREMY HUDSON, an individual; KOFI
THOMAS, an individual; MICHAEL
SIMON, an individual; PAUL PAULSEN, an
individual; AUSTIN WISE, an individual;
DAVID DANNY SPIVAK, an individual;
JAMES BURBANO, an individual;
WHOLESALE EXOTICS, INC., a Stock
Corporation; EXCLUZAYY
MOTORSPORTS, a California Corporation;
THOMAS CLASSICS, an Ohio Corporation,
DOES I-X, inclusive; and ROE
CORPORATIONS I-X, inclusive,

Defendants.

Case No. 2:22-cv-02123-RFB-EJY

ORDER

Pending before the Court is State Farm Mutual Automobile Insurance Company's Motion for Service by Publication and Extension of Time for Service of Process on Defendants Kofi Thomas and Excluzayy Motorsports. ECF No. 26. State Farm states it filed its Complaint on December 21, 2022 against all defendants named in the above caption, and all of Defendants have been successfully served with the exception of Kofi Thomas and Excluzayy Motorsports (the "Unserved Defendants"). Personal service on Kofi Thomas was attempted on December 30, 2022, January 9, 11, 17, 25, and 31, 2023. ECF No. 26-1 at 2-4. Personal service was attempted on Excluzayy Motorsports on December 28, 2022, and January 5, 25, and 31, 2023. *Id.* at 5-6.¹ State Farm avers that its process server has attempted, but is unable, to locate any additional addresses for the Unserved Defendants. ECF No. 26 at 4. State Farm seeks an unspecific extension of time to serve the Unserved Defendants and permission to serve the same through publication. *Id.* at 4-5

¹ The dates noted for attempted service were not identified by State Farm in its Motion. Instead, the Court ferreted this information out from a review of Exhibits. In the future State Farm is advised to include all the information it wants the Court to consider in the body of its filings.

1 **II. DISCUSSION**

2 Federal Rule of Civil Procedure 4(m) allows the Court to extend time to effect service when
3 good cause is shown that reasonable efforts to effect service are undertaken by a plaintiff. Rule 4(e)
4 allows a party to seek service of a defendant “by ... following state law for serving a summons in
5 an action brought in courts of general jurisdiction in the state where the district court is located”
6 Nevada Rule of Civil Procedure 4.4 allows service through alternative means so long as certain
7 procedural steps are undertaken.

8 State Farm proffers, in a rather conclusory fashion, that good cause exists in their favor and
9 against the Unserved Defendants. ECF No. 26 at 5:1-2. State Farm says the Unserved Defendants
10 “appear to no longer be residing at” last known addresses and “may possibly be evading service
11 based on ... knowledge of the existence of this lawsuit.” *Id.* at 5:4-5.

12 Although State Farm offers meager representations, the efforts of its process server
13 demonstrates State Farm was diligent in attempting to serve the Unserved Defendants. Service by
14 publication is permitted by Nev. R. Civ. P. 4.4, which is incorporated by reference in Fed. R. Civ.
15 P. 4(e). However, State Farm fails to comply with the requirements of Nev. R. Civ. P.
16 4.4(b)(2)(A)(ii). State Farm also does not comply with Nev. R. Civ. P. 4.4(c). The Court will not
17 do State Farm’s job.

18 **III. ORDER**

19 Therefore, and in accordance with the federal and state rules pertaining to service of process,
20 the Court HEREBY ORDERS that State Farm’s Motions for Service by Publication and Extension
21 of Time for Service of Process on Defendants Kofi Thomas and Excluzayy Motorsports (ECF No.
22 26) is GRANTED. State Farm shall have through and including **April 28, 2023** to effect such
23 service;

24 IT IS FURTHER ORDERED that State Farm will serve Kofi Thomas and Excluzayy
25 Motorsports by publication in accordance with Nev. R. Civ. P. 4.4(c).

1 IT IS FURTHER ORDERED that no later than **March 5, 2023**, State Farm **must** file on the
2 docket in PDF format, and simultaneously email a copy of a proposed order in WORD format, a
3 proposed order that complies with all steps and procedures required by Nev. R. Civ. P. 4.4(c). The
4 email with the attached WORD copy of the proposed order for the Court's review **must** be sent to
5 **Emily__Santiago@nvd.uscourts.gov**.

6 Dated this 28th day of February, 2023.

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8 ELAYNA J. YOUCHAK
9 UNITED STATES MAGISTRATE JUDGE
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